

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10991-NG

KENNETH M. WHITE and	)
MANDY DIAS	)
	)
Plaintiff	)
	)
vs.	)
	)
ERIC MADONNA and CITY OF	)
FALL RIVER,	)
	)
Defendants	)

**PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO STAY**

Plaintiffs Kenneth M. White and Mandy Dias hereby oppose Defendants' Motion to Stay. In support of this opposition, Plaintiffs state as follows:

1. Defendant Madonna's presence before the Court is necessary only as a fact witness at trial. Hence, Defendants motion is premature because a trial date in this case has not yet been scheduled.
2. Defendant Madonna has been deposed.
3. Defendant Madonna had ample opportunity before his alleged deployment in active military service to respond to Plaintiffs' written discovery served on September 27, 2004. Hence, Madonna's immediate unavailability should have no effect on Plaintiffs' Motion for Sanctions filed on June 6, 2005.
4. An affidavit attesting to Madonna's alleged deployment in active military service was not attached to the copy of the instant motion served on Plaintiffs.

LAW OFFICES OF  
BEAUREGARD, BURKE  
& FRANCO  
32 WILLIAM STREET  
NEW BEDFORD, MA 02740

5. Defendant Madonna is fully indemnified by, and shares the same defense as Defendant City of Fall River. Further, Corporation Counsel of the City of Fall River represents Defendant Madonna. Hence, Defendant Madonna's legal interests are adequately represented and unaffected by his alleged deployment in active military service.

6. Defendant Madonna's alleged deployment in active military service should have no effect on Plaintiffs' deposition of the City of Fall River, properly noticed pursuant to Fed.R.Civ.Pr. 30(b)(6), currently scheduled to occur on June 17, 2005.

WHEREFORE, Plaintiffs Kenneth M. White and Mandy Dias respectfully request that Defendants' Motion to Stay be DENIED.

Respectfully Submitted,  
Plaintiff Kenneth White,  
By His Attorneys,

/s/ James Hodgson  
PHILIP N. BEAUREGARD BBO# 034780  
JAMES HODGSON BBO# 656231  
BEAUREGARD, BURKE & FRANCO  
32 William Street  
New Bedford, MA 02741  
(508) 993-0333

Plaintiff Mandy Dias,  
By Her Attorney,

/s/ Brian Corey, Jr.  
BRIAN COREY, JR. BBO#  
1041 Main Road  
Westport, MA 02790  
Tel. No.: (508) 636-8861

Date: June 10, 2005

LAW OFFICES OF  
BEAUREGARD, BURKE  
& FRANCO  
32 WILLIAM STREET  
NEW BEDFORD, MA 02740